AN OUTLINE OF THE PROPOSED
DANGEROUS GOODS TRANSPORTATION ACT AND PROGRAM

January, 1984

The Province of Saskatchewan proposes the introduction of a Dangerous Goods Transportation Act. The act is intended to be the framework for the provincial participation in the national transportation of dangerous goods program.

In November, 1980 the Federal Government passed the Transportation of Dangerous Goods Act covering the handling, offering for transport, and the transporting of dangerous goods by any means of transport. The federal act is basically an umbrella type of legislation under which provincial laws and regulations may co-exist for areas of provincial jurisdiction.

The objective of the legislative program is to provide a means whereby a comprehensive set of regulations respecting the manner in which dangerous goods are handled, offered for transport and transported may be applied throughout Canada to all modes of transport.

The proposed provincial Dangerous Goods Transportation Act is intended to contribute to safety in the transportation of dangerous goods on the provinicial highway system through the application of a nationally harmonized set of safety standards, safety marks and safety requirements. The proposed provincial act is intended to apply to the on-highway aspects of dangerous goods transport. The federal act would remain applicable to all aspects of air, marine and rail transport and the offering for transport and the pre and post transport handling aspects of the road mode.

The provincial act is proposed to be parallel and complimentary to the federal Transportation of Dangerous Goods Act. It is the intent to adopt the federal regulations under the provincial act in support of national uniformity on this issue.

The province is in discussion with Transport Canada's Dangerous Goods Directorate on the development of the federal regulations. It is hoped that transport issues of a local provincial nature, for example, the transport of limited quantities of gasoline, diesel, etc., for farming operations in secured fuel tanks in pick-up trucks, can be appropriately addressed in the federal regulations. Should local transport issue not be adequately addressed federally, regulations may be considered and implemented provincially to ensure a common sense approach to such issues. It is stressed that provincial regulations would not be imposed to detract from areas of desired national uniformity but may be considered for areas of local concern that are restricted to intra-provincial transport.

The proposed provincial act would allow the province to enter into administrative agreements with Ottawa and other levels of government. The agreements would outline the various roles and responsibility under the program to ensure that it is effectively applied to all modal aspects of dangerous goods transportation. It is envisioned that a federal provincial administrative agreement would:

-- state mutual support for uniform legislation and continued coordination between the two levels of government

-- assign all areas of the on-highway transport to the province, i.e., both intra and inter-provincial transport

-- assign all aspects of the air, marine and rail modes and the offering for and pre and post transport handling aspects of the highway mode to the federal government

-- outline the appointment and training of inspectors under the two acts

-- outline the prosecution of charges and distribution of costs and revenues

-- outline the preparation and implementation of an awareness program.

The administrative agreement may address the designation of provincial or municipal staff as inspectors under the federal act or federal staff as inspectors under the provincial act as agreed to by the two levels of government.

The proposed provincial act would not address the area of emergency response to a dangerous goods incident as this area is covered by the provincial Department of Environment Act and the Civil Defence Act.

The proposed act would provide the authority to require the reporting of a dangerous goods incident to appropriate authorities. The act would support the continued immediate notification of a dangerous goods incident to the Department of Environment Spill Report Center. Immediate reporting requirements being proposed under the federal act will be reviewed by the province for their appropriate adoption in addition to or in place of existing spill control regulations.

The act anticipates providing for the reporting of dangerous goods incidents to Transport Canada Dangerous Goods Directorate in cases where a discharge occurs due to the failure of damage to a package or container. This reporting on a national basis is necessary so that defective types of containers, hazardous practices, etc., can be identified and corrective action taken.

The proposed act would provide authority for regulations prescribing circumstances for the development of emergency plans for implementation in the event of a dangerous occurrence. The preparation of emergency plans are envisioned to apply to specified dangerous goods which pose such a significant risk that national agreement exists on the need for the development and filing of a plan by the shipper, or carrier, or both prior to its transport. The requirement for emergency plans may also be extended to cases where there is the ongoing bulk transport of a specified dangerous good between a consigner and consignee.

The proposed act is intended to parallel the federal act in providing for the authority to pass regulations:

-- prescribing the classes of dangerous goods and products to be included in the classes

-- prescribing the manner of determining if a product is a dangerous good and the class under which it falls

-- prescribing safety marks, safety requirements and safety standards

-- prescribing the manner in which protective directions may be issued, reviewed, and appealed for addressing situations not previously addressed by the regulations

-- prescribing the manner in which permits of exemption may be issued, reviewed or appealed

-- prescribing the circumstances or conditions under which dangerous goods shall be transported or not transported

-- prescribing the circumstances or conditions under which the act does not apply.

The proposed act would also provide for the authority to adopt federal regulations or codes addressing the issue.

The proposed provincial act would be enforced by officers of the Highway Traffic Board. In addition, members of the R.C.M.P. or municipal police forces may be designated as inspectors under the act. The proposed act would provide an inspector with the powers to stop and inspect any vehicle that he suspects is transporting dangerous goods. The inspector would be given the authority to take samples for the purposes of analysis and to obtain copies of shipping documents. It is proposed that an inspector may detain a vehicle transporting dangerous goods in contravention of the act until satisfactory corrective action has been taken or in the case of a dangerous goods discharge, leak or emission until the danger to life, property or the environment has been adequately reduced or control of the incident is assumed by an appropriate authority such as the Department of Environment or the local municipal authority.

The proposed act is intended to parallel the federal act in the area of penalties for offences under the act. The act would thus provide for the more serious offences fines of up to $50,000 for

the first offence or up to $100,000 for subsequent offences and/ or for imprisonment of up to two years. It is proposed that a list of lesser offences will be developed on a national basis and included under the provincial Summary Procedures Act to allow for a voluntary payment option for designated offences.

As indicated previously, it is the intent to adopt the federal regulations under the proposed provincial act. It is the further national intent that an appropriate time period be allowed between final publication of the federal regulatory requirements and mandatory compliance such that industry and government may undertake the necessary training and adaptation to comply with and enforce the requirements of the regulations. Proclamation of the proposed act and regulations will take the above aspects into consideration.

In the area of municipal by-laws, the proposed new Urban Municipalities Act is addressing the issue of providing the required authority for municipalities to pass by-laws dealing with the routing of and parking of vehicles transporting dangerous goods. The proposed provincial Dangerous Goods Transportation Act or its federal counterpart will provide the basis for the definitions and classifications of dangerous goods.

In closing, it is noted that considerable work has preceded the development of the proposed provincial act and a great deal of cooperation exists and will be needed between the various levels of governments and industry to finalize and implement the program. It is realized that this program initiative is breaking new ground and that it will develop with time. In this atmosphere of co-operation between various levels of government and industry the above outlines the general intent of the proposed provincial act under which the province may effectively and efficiently assume its role.

POOR

QUALITY

ORIGINAL